

REMARKS

Claims 62 and 101 have been amended by replacing “consisting of” with -- comprising -- when discussing the silicone component. Applicants respectfully submit that this language is consistent with the Office’s interpretation of this component to date (that is, the claims do not exclude the presence of other silicone components through this language).

However, claims 62 and 101 have been amended by incorporating the subject matter of claims 113 and 114 into them, thereby excluding the presence of an alkoxylated silicone. Thus, the only silicone specifically excluded from the claims is an alkoxylated silicone.

Accordingly, claims 103, 107, 113 and 114 have been canceled.

Claims 2-27, 31-42, 44-51, 53-58, 60-78, 81-95, 101, 102, 105, 106 and 109-112 are currently pending, although claims 53-57, 60 and 61 have been withdrawn from consideration. Because the withdrawn claims ultimately depend from non-withdrawn claims, Applicant currently intends to seek rejoinder of the withdrawn claims pursuant to MPEP § 821.04 upon indication of allowable subject matter.

The Office Action rejected claims 5-10, 31-35, 37-42, 44-51, 58, 62, 63, 65-70, 81-83, 85-95, 101-103, 105, 106 and 109-112 under 35 U.S.C. §103 as obvious over EP 0548694 (“Nojima”) in view of U.S. patent 5,738,841 (“Mellul”) alone, and claims 2-4, 11-19, 20-27, 36, 64, 71-78 and 84 under 35 U.S.C. §103 as obvious over Nojima, Mellul and U.S. patent 5,690,918 (“Jacks”) and/or JP 63119412 (“JP 412”). Significantly, claims 113 and 114 were not rejected. Given that Applicant has incorporated the subject matter of claims 113 and 114 into all of the pending claims,

Applicant respectfully submits that these rejections have been rendered moot, and respectfully request withdrawal of these rejections.

The Office Action also rejected the pending claims under 35 U.S.C. §103 as obvious over U.S. patent 5,800,816 ("Brieva"). In view of the following remarks, Applicant respectfully requests reconsideration and withdrawal of these rejections.

Brieva relates to a transfer-resistant composition. (See, for example, abstract). Brieva forms his transfer-resistant film upon application by incorporating trimethylsiloxysilicate (MQ resin) into his compositions. However, Brieva uses a substantial amount of volatile oil, and the evaporation of such oil, to form his desired transfer-resistant film. This can be seen in all of the exemplified compositions in Brieva which contain much greater than 5% volatile oil.

In this regard, the Office Action's assertion that Brieva's example 2 contains a minimal amount of volatile oil is incorrect. Example 2 contains, in addition to Dow Corning 2-0747, 16.4% isododecane. It also contains C9-11 isoparaffin. Both isododecane and C9-11 isoparaffin are volatile oils. (See Tab A). In short, Brieva's example 2 contains a very significant amount of volatile oil (well over 20%).

Thus, Brieva relates to conventional transfer-resistant products, forming a transfer-resistant film through evaporation of significant amounts of volatile oil.

Nowhere does Brieva teach or suggest using trimethylsiloxysilicate in a composition containing 0-5% volatile oil to form a transfer-resistant film. That is, nowhere does Brieva provide sufficient guidance to one skilled in the art regarding how to form a transfer-resistant film upon application without using a substantial amount of volatile oil.

Merely because Brieva states that 0.1-60% volatile oil can be used in his compositions does not mean that Brieva adequately teaches one skilled in the art how to produce a transfer-resistant composition containing as little as 0.1% volatile oil. To the contrary, Brieva does not teach or suggest to one skilled in the art how to form a transfer-resistant film without using a substantial amount of volatile oil. Which non-volatile oils should be used to produce a transfer-resistant composition? Can any non-volatile oils be used? Brieva does not answer these questions. How much of such non-volatile oils should be added? Again, Brieva does not provide adequate guidance. How much, and what type of, particulate phase should be added. Once again, Brieva's disclosure is inadequate to answer these questions.

In stark contrast, the claimed invention enables one skilled in the art to produce a transfer-resistant product without using a significant amount of volatile oil through a unique combination of ingredients. Brieva does not contain a sufficiently detailed disclosure which would lead one skilled in the art to the particular constitution of the invention compositions, nor does it contain a sufficient disclosure to suggest that such a composition, lacking substantial amounts of volatile oils, would be transfer-resistant.

It is only through hindsight, using the disclosure of the present application as a guide, that Brieva's broad general disclosure can be twisted in such a way as to suggest the claimed transfer-resistant compositions containing minimal amounts of volatile oil. Such hindsight analysis is improper, and cannot render the claimed invention obvious.

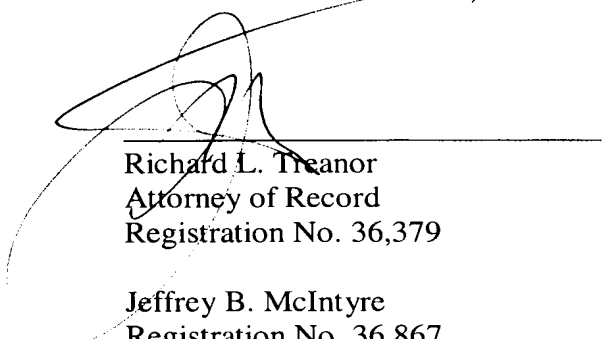
Finally, Brieve's example 2 contains oleyl alcohol. The presence of this compound in example 2 neither teaches nor suggests the required hydrocarbon oils specifically identified in claims 65-68. For this reason as well, claims 65-68 are free of the applied art.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 based upon Brieve.

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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TAB A

UNIVAR USA - MSDS

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**UNIVAR**

08 MAY 2008

Univar USA Inc.
17425 NE Union Hill Road
Redmond, WA 98052
(425) 889-3400

For Emergency Assistance involving chemicals call - CHEMTREC (800) 424-9300

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The Version Date and Number for this MSDS is : 06/22/2007 - #006

PRODUCT NAME: ISOPAR E FLUID
MSDS NUMBER: EX835643
DATE ISSUED: 02/12/2007
SUPERSEDES: 02/27/2003
ISSUED BY: 008505

MATERIAL SAFETY DATA SHEET

SECTION 1 PRODUCT AND COMPANY IDENTIFICATION

PRODUCT

Product Name: ISOPAR E FLUID
Product Description: Isoparaffinic Hydrocarbon
Product Code:
Intended Use: Solvent

COMPANY IDENTIFICATION

Supplier:
EXXONMOBIL CHEMICAL COMPANY
P.O. BOX 3272
HOUSTON, TX. 77253-3272 USA
24 Hour Health Emergency (800) 726-2015
Transportation Emergency Phone (800) 424-9300 CHEMTREC
Product Technical Information (281) 870-6000/
Health & Medical (281) 870 6884
Supplier General Contact (281) 870-6000

SECTION 2 COMPOSITION / INFORMATION ON INGREDIENTS

Reportable Hazardous Substance(s) or Complex Substance(s)

Name	CAS#	Concentration
NAPHTHA (PETROLEUM), LIGHT ALKYLATE	64741-66-8	100%

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* All concentrations are percent by weight unless material is a gas. Gas concentrations are in percent by volume.

SECTION 3 HAZARDS IDENTIFICATION

This material is considered to be hazardous according to regulatory guidelines (see (M)SDS Section 1b).

POTENTIAL PHYSICAL / CHEMICAL EFFECTS

Flammable. Material can release vapors that readily form flammable mixtures. Vapor accumulation could flash and/or explode if ignited. Material can accumulate static charges which may cause an incendiary electrical discharge.

POTENTIAL HEALTH EFFECTS

Repeated exposure may cause skin dryness or cracking. If swallowed, may be aspirated and cause lung damage. May be irritating to the eyes, nose, throat, and lungs.

NFPA Hazard ID:	Health: 1	Flammability: 3	Reactivity: 0
HMIS Hazard ID:	Health: 1	Flammability: 3	Reactivity: 0

NOTE: This material should not be used for any other purpose than the intended use in Section 1 without expert advice. Health studies have shown that chemical exposure may cause potential human health risks which may vary from person to person.

SECTION 4 FIRST AID MEASURES

INHALATION

Remove from further exposure. For those providing assistance, avoid exposure to yourself or others. Use adequate respiratory protection. If respiratory irritation, dizziness, nausea, or unconsciousness occurs, seek immediate medical assistance. If breathing has stopped, assist ventilation with a mechanical device or use mouth-to-mouth resuscitation.

SKIN CONTACT

Wash contact areas with soap and water. Remove contaminated clothing. Launder contaminated clothing before reuse.

EYE CONTACT

Flush thoroughly with water. If irritation occurs, get medical assistance.

INGESTION

Seek immediate medical attention. Do not induce vomiting.

NOTE TO PHYSICIAN

If ingested, material may be aspirated into the lungs and cause chemical pneumonitis. Treat appropriately.

SECTION 5 FIRE FIGHTING MEASURES

EXTINGUISHING MEDIA

Appropriate Extinguishing Media: Use water fog, foam, dry chemical or carbon dioxide (CO2) to extinguish flames.

Inappropriate Extinguishing Media: Straight Streams of Water

FIRE FIGHTING

Fire Fighting Instructions: Evacuate area. If a leak or spill has not ignited, use water spray to disperse the vapors and to protect personnel

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attempting to stop a leak. Prevent runoff from fire control or dilution from entering streams, sewers, or drinking water supply. Firefighters should use standard protective equipment and in enclosed spaces, self-contained breathing apparatus (SCBA). Use water spray to cool fire exposed surfaces and to protect personnel.

Unusual Fire Hazards: Highly flammable. Vapors are flammable and heavier than air. Vapors may travel across the ground and reach remote ignition sources causing a flashback fire danger.

Hazardous Combustion Products: Incomplete combustion products, Smoke, Fume, Oxides of carbon

FLAMMABILITY PROPERTIES

Flash Point (Method): 7C (45F) (ASTM D-56)
Flammable Limits (Approximate volume % in air): LEL: 0.9 UEL: 6.2 Autoignition Temperature: 395 deg C (743 deg F)

SECTION 6 ACCIDENTAL RELEASE MEASURES**NOTIFICATION PROCEDURES**

In the event of a spill or accidental release, notify relevant authorities in accordance with all applicable regulations. U.S. regulations require reporting releases of this material to the environment which exceed the reportable quantity or oil spills which could reach any waterway including intermittent dry creeks. The National Response Center can be reached at (800)424-8802.

PROTECTIVE MEASURES

Avoid contact with spilled material. Warn or evacuate occupants in surrounding and downwind areas if required due to toxicity or flammability of the material. See Section 5 for fire fighting information. See Section 3 for Significant Hazards. See Section 4 for First Aid Advice. See Section 8 for Personal Protective Equipment.

SPILL MANAGEMENT

Land Spill: Eliminate all ignition sources (no smoking, flames, sparks or flames in immediate area). Stop leak if you can do it without risk. All equipment used when handling the product must be grounded. Do not touch or walk through spilled material. Prevent entry into waterways, sewers, basements or confined areas. A vapor suppressing foam may be used to reduce vapors. Use clean non-sparking tools to collect absorbed material. Absorb or cover with dry earth, sand or other non combustible material and transfer to containers. **Large Spills:** Water spray may reduce vapors; but may not prevent ignition in closed spaces.

Water Spill: Stop leak if you can do it without risk. Eliminate sources of ignition. Warn other shipping. If the Flash Point exceeds the Ambient Temperature by 10 degrees C or more, use containment booms and remove from the surface by skimming or with suitable absorbents when conditions permit. If the Flash Point does not exceed the Ambient Temperature by 10 degrees C or is less than the Ambient Temperature, use booms as a barrier to protect shorelines and allow the material to evaporate. Seek the advice of a specialist before using dispersants.

Water spill and land spill recommendations are based on the most likely spill scenario for this material; however, geographic conditions, wind, temperature, (and in the case of a water spill) wave and current direction and speed may greatly influence the appropriate action to be taken. For this

→ C8-9 Isoparaffin

- **INCI Name:** C8-9 Isoparaffin
- **CTFA Monograph Id:** 371
- **Definition:** C8-9 Isoparaffin is a mixture of branched chain aliphatic hydrocarbons with 8 or 9 carbons in the alkyl chain.
- **SAFETY/REGULATORY INFORMATION**
- **Information Source(s):** 21CFR172.882, 21CFR173.340
- **Chemical Class(es):** Hydrocarbons
- **Function(s):** Solvents; Viscosity Decreasing Agents
- **Ingredient Source(s):** Synthetic
- **Technical Name(s):**
 - Alkanes, C8-9-Iso-
- **Trade Name(s):**
 - Isopar E (ExxonMobil Chemical Company)

MATERIAL SAFETY DATA SHEET

(Date Prepared: August 13,1991)

SECTION I - PRODUCT IDENTIFICATION:

TRADE NAME: PERMETHYL* 99A
MANUFACTURER/DISTRIBUTOR: The Permethyl Corporation
ADDRESS: 191 South Kelm Street
Pottstown, PA 19464
EMERGENCY TELEPHONE: CHEMTREC (800)424-9300
TELEPHONE NUMBER FOR INFORMATION: (215)970-0251
DESCRIPTION: Permethyl® 99A
→ CHEMICAL NAME & SYNONYMS: Isododecano (CAS No. 13475-82-6)
CHEMICAL FAMILY: Aliphatic Hydrocarbon
CHEMICAL NOTATION: $C_{12}H_{24}$

SECTION II - HAZARDOUS INGREDIENTS

<u>MATERIAL</u>	<u>CAS#</u>	<u>%</u>	<u>TLV UNITS</u>
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NOT APPLICABLE

SECTION III - PHYSICAL DATA

BOILING POINT: 352-361 °F (178-183 °C)	MELTING POINT: Pour Pt. -114 °F (-81 °C)
SPECIFIC GRAVITY (H ₂ O=1): 0.747 g/ml	VAPOR PRESSURE (50 °C): 188 mbar
VAPOR DENSITY (AIR=1): 5.9	EVAPORATION RATE: Not Known
SOLUBILITY IN H ₂ O: Insoluble	APPEARANCE & ODOR: Colorless liquid - almost odorless

SECTION IV - FIRE & EXPLOSION HAZARD DATA

→ FLASH POINT: 109.4 °F (43 °C) ASTM D93-66

FLAMMABLE LIMITS IN AIR (% BY VOLUME)

LOWER: 0.5

UPPER: 3.8